

Application in case of outsourcing of UCI depositary tasks

(This form must be filled in electronically)

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| QUESTIONNAIRE[[1]](#footnote-1) TO BE COMPLETED IN CASE OF OUTSOURCING[[2]](#footnote-2) OF UCI DEPOSITARY TASKS |
| Any material outsourcing is subject to the CSSF's prior authorisation in accordance with the eighth indent of point 182. of Circular CSSF 12/552, as amended, as well as mentioned in point 16. of Circular CSSF 16/644.Within the framework of this questionnaire, outsourcing shall mean the complete or partial transfer of operational functions, activities or provision of (support) services of a UCI depositary, as provided for in the sectoral regulation on UCIs, to an external service provider, whether or not it is part of the group to which the depositary belongs, other than a delegation.If this application concerns several outsourced entities, please provide specific answers for each outsourced entity. |
| **1. Entity concerned** |
| New entity : **[ ]**  | Existing entity : **[ ]**  |
| Company name: |       |
| Authorisation(s) held: |       |
| Pending authorisation(s): |       |
| Contact person(s) for the application: | * Name(s)
* Company
* Phone
* E-mail
 |
| **2. Project, outsourced entity and targeted investment vehicle(s)** |
| A - Please specify the reasons why the entity wishes to outsource the tasks described under point 3. below as well as the financial impact for the entity, the funds and their investors.      |
| B - Please indicate the impact in terms of staff on the entity.      |
| C - Please indicate the company name and registered office of the outsourced entity. Moreover, please specify the outsourced entity's actual operations place(s) if the tasks are carried out at a place other than the registered office.      |
| D – Please specify:- If the outsourced entity is subject to a prudential supervision and if so, the name of the supervisory authority, the legal status of the outsourced entity as well as the activities covered by such a status;- If the outsourced entity belongs to the same group as the applicant entity; - If the outsourced entity has already been approved in past applications by the CSSF (if so, at what date and for what tasks);- The number of persons assigned to the outsourced tasks at the outsourced entity.      |
| E – Targeted investment vehicle(s)[[3]](#footnote-3): | Type(s) of vehicle(s): | Number of UCIs: | Volume in terms of net assets (in million EUR): |
| *Please specify whether the outsourcing solely applies to a group of funds (for one or several clients).[[4]](#footnote-4)* | [ ]  UCITS governed by Part I of the Law of 17 December 2010 relating to undertakings for collective investment, as amended |       |       |
|  | [ ]  UCIs governed by Part II of the Law of 17 December 2010 relating to undertakings for collective investment, as amended |       |       |
|  | [ ]  SIFs governed by the Law of 13 February 2007 relating to specialised investment funds and that are covered by the specific provisions of Part II of this Law |       |       |
|  | [ ]  SICARs governed by the Law of 15 June 2004 relating to the investment company in risk capital (SICAR) and which are covered by the specific provisions of Part II of this Law |       |       |
|  | [ ]  SIFs governed by the Law of 13 February 2007 relating to specialised investment funds and that are not covered by the specific provisions of Part II of this Law |       |       |
|  | [ ]  SICARs governed by the Law of 15 June 2004 relating to the investment company in risk capital (SICAR) and that are not covered by the specific provisions of Part II of this Law |       |       |
|  | [ ]  Non-regulated Luxembourg vehicle(s)[[5]](#footnote-5) |       |       |
| **3. Description of the outsourced operational tasks** |
| Please describe in detail the list of all outsourced operational tasks[[6]](#footnote-6).      |
| **4. Human means and control procedures in place** |
| A - Please specify the name of the person and, where applicable, of the department that is in charge of the coordination and general oversight of the outsourced entity's activities.      |
| B - Please describe the department's functioning (number of people, time dedicated, etc.) or the time spent by the person, at the level of the entity, in charge of the oversight of the outsourced entity's activities.      |
| C - Please take a position on the entity's ability in terms of staff (number, experience, etc.) to take over the activities, where necessary.      |
| D - Please provide a summary of the initial due diligence carried out on the potential outsourced entity (in particular, in terms of human and technical resources, professional standing, expertise and experience, etc.).      |
| E - Please describe the methods and the key performance indicators implemented to ensure ongoing due diligence on the outsourced entity by the entity.      |
| F - Please specify the functioning of the day-to-day controls[[7]](#footnote-7) for each task, by means of a flowchart, where necessary, as well as the documentation in place to materialise them (checklist, signature, reports, frequency of controls, etc.).      |
| G - Please provide a summary of the content of the different reports[[8]](#footnote-8) the entity receives from the outsourced entity in order to ensure an oversight of the outsourced activities.      |
| H - Please confirm that the outsourcing is formalised properly by a contractual documentation (such as a Service Level Agreement) between the entity and the outsourced entity.     Could you thus confirm that the outsourcing contract will address the following requirements:- description of the services provided by the outsourced entity;- description of the responsibilities of the entity and those of the outsourced entity;- integration of the entity's needs into the Business Continuity Plan (“BCP”)/Disaster Recovery Plan (“DRP”) and backup plans of the outsourced entity;- conditions for the termination of the contract and transfer to another outsourced entity or internal takeover of the activities;- management of the outsourcing relationship (i.e. regular meetings/reports between the outsourced entity and the entity, incident management procedures, KPI, etc.);- sub-outsourcing conditions at the level of the outsourced entity (i.e. prior authorisation of the entity);- data confidentiality and security;- possibility for internal and external auditors of the entity as well as for the supervisory authority (the CSSF) to undertake on-site inspections;- absence of termination clause or service termination clause due to the application to the entity, as defined in point 1. of this questionnaire, of resolution or reorganisation measures or winding-up proceedings as provided for in the Law of 18 December 2015 on the failure of credit institutions and certain investment firms[[9]](#footnote-9).      |
| **5. In case of sub-outsourcing** |
| A - Please indicate the measures and controls put in place by the entity in Luxembourg and by the outsourced entity over the entity carrying out sub-outsourced tasks.      |
| B - Please specify the decision-making process to authorise an entity carrying out sub-outsourced tasks.      |
| C - Please indicate the control measures put in place by the entity in Luxembourg to ensure that the outsourced entity has been executing initial and ongoing due diligence procedures over the entity carrying out sub-outsourced tasks.      |
| D – Please take a position on the mastering by the entity of the sub-outsourcing processes.      |
| **6. Description of technical means** |
| A - Please specify the software that will be used by the outsourced entity to perform the tasks entrusted to him.      |
| B – Please specify the location of the software: is it hosted in the entity’s data centre (and the outsourced entity accesses it by remote), in the outsourced entity’s data centre or at a third party’s data centre (in this case please specify the name of the third party)?      |
| C – Please indicate whether the entity, the outsourced entity or the third party will be in charge of the management/administration of the software and underlying infrastructure (operating system, database).      |
| D - Please describe the physical access security measures and mechanisms (access controls, environmental security) relating to the data centre of the outsourced entity or of the third party hosting the systems used.      |
| E - If the entity does not host the software, please describe whether the entity can access the outsourced entity's or the third party's system, the reason for such accesses and their nature (permanent or non-continuous, read-only, write accesses, etc.).      |
| F - Please indicate the measures implemented to ensure the security of the communications between the entity and the systems hosted at the outsourced entity or third party’s data centre or between the outsourced entity and the systems hosted at the entity’s data centre, where applicable. Please specify in particular the encryption protocol (e.g. IPSec, SSL), the encryption algorithm (e.g. RSA, AES) and the length of the keys used (please note that the CSSF highly recommends a minimal key length of 2048 bits for asymmetric encryption algorithms and 256 bits for symmetric encryption algorithms.      |
| G - Please describe the encryption processes for data at rest that have been put in place, where appropriate (specify the encryption protocol, the encryption algorithm and the keys length). Please provide a list of persons having access to the encryption keys of this data.      |
| H - Does the entity have a dedicated and segregated IT environment? Please specify how the environment is technically segregated (e.g. via logical user access controls only or by the use of a dedicated virtual machine or a separated database?).      |
| I - Please describe the authentication controls mechanism of users (of the entity and/or of the outsourced entity) to log into the relevant software - locally and remote.      |
| **7. IT contingency plan** |
| A - In the case of technical or other problems, please describe the technical means available to the entity for taking over the operational procedures (DRP and backup policy).      |
| B - Please confirm that a BCP adapted to the outsourcing model has been put in place with the outsourced entity.      |
| **8. Consent and data protection** |
| A - Please describe the arrangements put in place in order to maintain protection and confidentiality of the data relating to the investment vehicles serviced on an ongoing basis.      |
| B - What is the number of the outsourced entity's employees having access (read and write) to the data (whether confidential or not) of the entity, in absolute terms and as a percentage of the total number of employees of the outsourced entity?      |
| C - Please confirm that no access to the IT environment/data of the entity can be granted without the formal authorisation of the entity and that the entity periodically reviews the existing access rights to its data (recertification of the rights at least every six months). These principles must be formalised in an access management procedure and in the outsourcing contract.      |
| D - In order to ensure compliance with the need-to-know principle, please confirm that these accesses to the data of the entity by employees of the outsourced entity are critical to the proper achievement of the tasks entrusted to them.      |
| E - How and in what form will the outsourced entity have access to the documents necessary for the performance of the outsourced tasks?      |
| F - Please confirm that the IT developers have never default access to the production environment and that the test and development environments do not include confidential data.      |
| G - In case of data transfer, the entity must obtain consent from its clients, the undertakings for collective investment, through the Board of Directors (“BoD”) of the SICAV or the IFM for common funds, for outsourcing the services in scope, the type of information transmitted in the context of the outsourcing and the country of establishment of the entity providing outsourced services, pursuant to article 41 (2a) of the Law of 5 April 1993 on the financial sector, as amended.Please confirm that consent for transferring data to the outsourced entity has been obtained from the BoD of the SICAV or from the IFM for common funds.      |
| H - Please confirm that the depositary's outsourced operational processes do not include confidential data of investors of these vehicles.      |
| **9. Review by the Chief Compliance Officer** |
| Please confirm that all the information provided in this questionnaire has been subject to a review and formal approval by the Chief Compliance Officer of the entity.      |
| Application date:        |



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1. The questionnaire concerns the outsourcing of UCI depositary tasks as provided for in the sectoral regulation on UCIs, as opposed to the delegation of the legal function of the safekeeping of assets covered by the requirements laid down in Articles 18a and 34a of the Law of 17/12/2010 and 19.(11) of the Law of 12/07/2013. [↑](#footnote-ref-1)
2. The questionnaire is applicable in case of outsourcing of a task which so far has been carried out by the entity in Luxembourg and/or in case of change of the outsourced entity. [↑](#footnote-ref-2)
3. Please provide the list of the UCIs concerned. [↑](#footnote-ref-3)
4. In case of different treatments, please ensure that each model is described separately. [↑](#footnote-ref-4)
5. Including reserved alternative investment funds (RAIFs) within the meaning of the Law of 23 July 2016. [↑](#footnote-ref-5)
6. For clarity, a commented descriptive table may be attached. [↑](#footnote-ref-6)
7. This description must allow identifying at what level the entity and the outsourced entity act and identifying the control phases. [↑](#footnote-ref-7)
8. For clarity, (an) example(s) of the report(s) may be attached. [↑](#footnote-ref-8)
9. Cf. point 188. of Circular CSSF 12/552, as amended. [↑](#footnote-ref-9)